

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL No. 235 of 1988****For Approval and Signature:****HONOURABLE MR.JUSTICE KS JHAVERI**

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VALABHAI KARSANBHAI BHARWAD - Appellant(s)
Versus
JANMOHMED MERAMAN & 2 - Defendant(s)

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Appearance :

MR KJ KAKKAD for Appellant(s) : 1,
RULE UNSERVED for Defendant(s) : 1 - 2.
RULE SERVED for Defendant(s) : 3,
MR SHANTILAL S SHAH for Defendant(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI**Date : 24/07/2006****ORAL JUDGMENT**

1.0 By way of this appeal, the appellant has challenged the judgment and award of the Motor Accident Claims Tribunal (Special), Rajkot at Morbi passed in M.A.C.P. No.77 of 1987 dated 16th October, 1987.

2.0 The brief facts of the case are that on 20.09.1984, when the appellant was going towards Thikaria to Chotila on a motorcycle driven by one

Matra Kana as pillion rider, the said motorcycle met with an accident caused by a truck driven by present opponent No.1 and owned by present opponent No.2. Therefore, he filed a petition claiming an amount of Rs.1,00,000/- by way of compensation.

2.1 In the said petition, after hearing the parties, the Tribunal passed the judgment and award which is under challenge in this appeal.

3.0 Learned Advocate for the appellant has submitted that the Tribunal has committed an error by passing the impugned judgment and award without affording an opportunity to the appellant to lead the evidence to prove the total loss suffered by him. He has further submitted that the Tribunal ought to have examined the Doctor to ascertain the percentage of disability sustained by the appellant.

4.0 Heard. From the contents of the

'Panchnama' and the evidence on record, it clearly transpires that opponent No.1 had the time to watch out as to whether anyone was going on the road. Even though he drove the vehicle in question in a rash and negligent manner, resulting in to alleged accident. In my opinion, the Tribunal has rightly held opponent No.1 responsible for the alleged accident.

4.1 On perusal of the document produced at Exh.23 i.e. medical certificate it appears that the appellant had sustained one compound fracture and three simple fractures and on account of that he had to remain in hospital for about five months and ten days. It also appears that on account of follow-up treatment he could not work for two more months. Hence, in all for about seven months he was prevented from attending his daily work. Therefore, the Tribunal awarded Rs.7,000/- towards actual loss of income taking monthly loss at Rs.1000/-. The Tribunal has awarded an amount of Rs.12,000/- under the head

of pain, shock and suffering and Rs.2,000/- for follow up treatment and Rs.3,000/- for special diet etc., taking into consideration the nature of injuries sustained by the appellant. The Tribunal has awarded an amount of Rs.12,000/- towards future loss of income taking disability sustained by the appellant at 10 per cent of the body as a whole and by applying a multiplier of 10 years. Here it is required to be noted that, though, no medical certificate has been produced by the appellant to show the extent of disability sustained by him, the Tribunal has taken a lenient view and has awarded the aforesaid amount under the head of loss of future income.

4.2 Hence, it clearly transpires that while deciding the petition of the appellant for compensation, the Tribunal has taken into consideration all the facts and circumstances. I am, therefore, in complete agreement with the reasonings given and findings arrived at by the Tribunal and find no reason to interfere in this

appeal. Hence, the appeal deserves to be dismissed.

5.0 In the result, the appeal stands dismissed. No order as to costs.

(K.S. Jhaveri, J.)

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